

Page 101	Page 103
<p>1 reading it.  2 (Pause)  3 Q. Eric, I've shown you what appears to  4 be a statement signed by a Sears employee. Do  5 you know whose signature that is on the bottom  6 of the statement?  7 A. I know it says Andy.  8 Q. Did you know anybody named Andy that  9 worked with you when you worked at Sears?  10 A. Yeah, a fellow employee.  11 Q. What was Andy's last name, do you  12 know?  13 A. I honestly don't know.  14 Q. Was it Andy DiGaetono?  15 A. That rings a bell.  16 Q. Does that look like it's Andy  17 DiGaetono's signature?  18 A. I don't know what he signs like.  19 Q. But it looks like that's what it says  20 at the bottom of the page?  21 A. Yes.  22 Q. And this is dated October 15, 2003; is  23 that correct?  24 A. Yes.</p>	<p>1 involved in swearing at the customer?  2 A. Yes.  3 Q. Do you know what Frank's last name  4 was?  5 A. No. I don't remember.  6 Q. The next line reads, Eric came over,  7 argued with the customer, and he said at the  8 customer the F word.  9 Did you, in fact, go over to the  10 customer and swear at her?  11 A. No.  12 Q. Do you know why Andy would have  13 written that?  14 A. No idea.  15 Q. The next line says, The customer was  16 unhappy. And she wanted to talk to management.  17 Andy spoke (sic) to the customer to calm her  18 down. She said that Eric had no right to talk  19 to her in a bad way.  20 Do you remember having that  21 conversation with her or with Andy about that  22 situation?  23 A. No.  24 Q. Next it says, G. Caleo told Eric to go</p>
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<p>1 Q. And the statement talks about an  2 incident with a customer that occurred on  3 October 14, 2003; is that correct?  4 A. From what I see, correct.  5 Q. Is this the incident that you were  6 talking about a moment ago in which another  7 fellow employee swore at a customer?  8 A. Yes.  9 Q. Reading down on the statement, it  10 says, A customer came in last night, 10/14/03,  11 for a flat repair. Tire could not be repaired.  12 G. Caleo notified customer that tire could not  13 be repaired. Customer and G. Caleo had argument  14 about purchase a new tire.  15 Is G. Caleo the person that was  16 involved with the swearing with the customer?  17 A. I don't know.  18 Q. Next it says, Frank could not repair  19 tire. Frank said the F word out loud.  20 Is Frank the other employee that was  21 involved?  22 A. Yes. That rings a bell. Frank rings  23 a bell.  24 Q. Is Frank the other employee that was</p>	<p>1 back to work and that Andy and himself would  2 take care of the customer.  3 Do you remember that?  4 A. No. I don't even know who G. Caleo  5 is. Is that the name of the customer?  6 Q. I don't know. That's why I'm asking  7 you. But you don't know as you sit here now who  8 G. Caleo is; is that correct?  9 A. Correct.  10 Q. But it is your understanding that  11 Frank did swear at a customer on the night of  12 October 14, 2003?  13 A. I remember that.  14 Q. And is that the incident for which you  15 were fired?  16 A. I believe this is the incident that  17 led to my termination.  18 Q. I'm going to show you what's been  19 marked as Exhibit No. 7. I'll take back No. 8.  20 It's two pages. If you can take a minute to  21 review them and let me know when you're done.  22 A. Okay.  23 Q. All set?  24 A. Yes. Who's that (indicating)?</p>

26 (Pages 101 to 104)

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1 Q. I can't answer any questions that you  
2 have, as much as I'd love to.

3 MR. CLOHERTY: Do you want to have the  
4 witness indicate where he was pointing to?

5 MS. TRAN: He was pointing to the  
6 signature at the bottom of the second page of  
7 Exhibit No. 7.

8 Q. Page 1 is a statement dated October  
9 14, 2003. The signature on the bottom is cut  
10 off.

11 MS. TRAN: I'll see if I have, Kurt, a  
12 full signature. I don't know if mine is full or  
13 not.

14 MR. OLSON: Okay.

15 Q. But the statement describes -- it's  
16 apparently by a Sears employee and it describes  
17 the swearing incident that we've been  
18 discussing; is that correct?

19 A. Say that again.

20 Q. The statement is dated October 14.  
21 2003 by a Sears employee that describes the  
22 swearing incident we've been discussing?

23 A. I don't know if it's a Sears employee.

24 Q. Okay. But it is a statement

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1 describing the swearing incident we've been  
2 discussing; is that correct?

3 A. It looks like it, yes.

4 Q. And that's the swearing incident that  
5 led up to your termination; is that correct?

6 A. Correct.

7 Q. I'm sorry, is that correct?

8 A. Correct.

9 Q. And Page 2 is a statement dated  
10 October 15, 2003 that details a telephone  
11 conversation received from the signator or the  
12 statement describing the call from the customer  
13 where she complained about the swearing  
14 incident; is that correct?

15 A. They're false events.

16 Q. The events are false?

17 A. The statements are false.

18 Q. False statement by whom?

19 A. By whoever this person is.

20 Q. By this second page meaning this  
21 person never received a phone call from the  
22 customer?

23 A. I don't know that.

24 Q. So you don't know whether or not the

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1 person that signed the second page of Exhibit 7  
2 received a phone call from the customer?

3 A. Correct.

4 Q. So it's possible that that person  
5 received a phone call from the customer and that  
6 this is what the customer told that person?

7 A. I guess so.

8 Q. Right? Is that possible?

9 A. Say it again.

10 Q. It's possible this statement reflects  
11 a phone call received by the person who signed  
12 it in which the customer told the person these  
13 things?

14 A. It's possible.

15 Q. Do you have any reason to believe that  
16 somebody would make up the phone call from the  
17 customer?

18 A. No, no reason to believe.

19 Q. And you don't know whose signature  
20 this is on the bottom of that second page?

21 A. Correct.

22 Q. Does it look like it could be the  
23 signature of Anthony Cieri?

24 A. I have no idea. I can't even make

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1 that signature out.

2 Q. On the bottom of the first page --  
3 obviously it's cut off -- but you don't know  
4 whose signature that is either?

5 A. I have no idea.

6 Q. Did you at any time tell Ms. Lacroix,  
7 who is the customer that's named in these pages,  
8 did you at any time swear at her as she stated  
9 you did?

10 A. No, I didn't.

11 Q. Did Frank swear at her?

12 A. Yes, he did.

13 Q. When you said that the statements were  
14 false, what did you mean by that?

15 A. The statement says that I swore at  
16 her, which I didn't.

17 Q. Which statement?

18 A. Both of them, right?

19 Q. Right. What's false about them? Is  
20 it that the substance of the statements is false  
21 or that whoever wrote them wrote them falsely?  
22 Take them one at a time.

23 The first page of Exhibit 7, the one  
24 that's dated October 14, 2003, okay?

27 (Pages 105 to 108)

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1 A. That is false.  
 2 Q. You think this person wrote them  
 3 falsely?  
 4 A. Front and back, first and second.  
 5 Q. So you think both people lied about  
 6 what they wrote?  
 7 A. The beginning starts to make sense,  
 8 but when the argument started happening, it  
 9 seems like things are just added in there.  
 10 Q. What do you think is exactly that is  
 11 just added in there?  
 12 A. First, at me swearing, I didn't swear.  
 13 Q. What else?  
 14 A. Me walking up to the technician.  
 15 Q. What else? This is on the first page  
 16 that we're talking about.  
 17 A. Yes, I understand. This is on the  
 18 first page.  
 19 (Pause)  
 20 A. Me getting involved.  
 21 Q. Are you talking about at the bottom of  
 22 the first page where it says Eric should not  
 23 have got involved?  
 24 A. Yes.

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1 Q. You think that's false; is that  
 2 correct?  
 3 A. Correct.  
 4 Q. The second page, you understand that  
 5 that statement is a statement about what the  
 6 customer told the person who signed it, it's not  
 7 a statement of the person who signed it? You  
 8 understand that, correct?  
 9 A. Correct.  
 10 Q. Did you think that the customer lied  
 11 or the person that wrote this lied?  
 12 A. I don't know. I wasn't there. It  
 13 could have been either/or.  
 14 Q. But you don't know which one it is?  
 15 A. No.  
 16 Q. Irregardless, the events described in  
 17 these two pages reflect the swearing incident  
 18 we've been talking about, the one that led to  
 19 your termination; is that correct?  
 20 A. Correct.  
 21 Q. And do you remember if you were ever  
 22 reprimanded for swearing for any incidents other  
 23 than this one that occurred on October 14?  
 24 A. Say that again.

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1 Q. Do you remember if you were ever  
 2 reprimanded by Sears for swearing other than the  
 3 time you were terminated as a result of the  
 4 incident on October 14?  
 5 A. I want to say yeah, but I don't  
 6 remember, honestly. You asked me a question  
 7 like that before. I didn't remember.  
 8 Q. So you think so, but you don't  
 9 remember; is that correct?  
 10 A. I remember I had to do a written  
 11 statement for something, but I don't remember  
 12 what it was for.  
 13 Q. I'm going to show you what's been  
 14 marked as Exhibit No. 5. Take a minute to look  
 15 at it.  
 16 A. I remember this now (indicating).  
 17 Q. And is that your signature on the  
 18 bottom of that page?  
 19 A. Yes, it is.  
 20 Q. Whose signature is below yours?  
 21 A. I have no clue.  
 22 Q. What's the date on the signature below  
 23 yours?  
 24 A. 10 -- October 2, '03.

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1 Q. This is a statement that says, Eric  
 2 Souvannakane -- is that how you pronounce your  
 3 last name?  
 4 A. No, Souvannakane. It's ain't as hard  
 5 as it looks.  
 6 Q. It says, Eric Souvannakane has been  
 7 given a final warning per Barbara Tagliarino for  
 8 the incident that occurred with customer on  
 9 September 29, 2003.  
 10 Is that an accurate reading of that  
 11 statement?  
 12 A. I'd say so, yes.  
 13 Q. Do you remember the incident that  
 14 occurred on September 29, 2003?  
 15 A. I remember now, yes.  
 16 Q. What was that incident?  
 17 A. An upset customer that -- yeah,  
 18 another racial -- something else, another racial  
 19 thing.  
 20 Q. What was it?  
 21 A. An upset customer, just upset.  
 22 Q. Can you be more specific as to the  
 23 details?  
 24 A. I guess --

28 (Pages 109 to 112)

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1 Q. I need you to be certain, so don't  
 2 guess. Just tell me what you remember  
 3 happening.  
 4 A. To the best of my knowledge, I'll  
 5 break it down for you. In the morning time I  
 6 guess another technician serviced this  
 7 customer's vehicle, but I guess they put on the  
 8 wrong tires.  
 9 Q. This is on September 29?  
 10 A. I don't remember. But if it was  
 11 September 29, I'm assuming it was September 29.  
 12 Q. You have no reason to think it wasn't  
 13 September 29?  
 14 A. I don't know. I don't remember. But  
 15 if it says right there in black and blue, I  
 16 guess so.  
 17 Q. So what happened?  
 18 A. It could be a 4.  
 19 Q. What happened next?  
 20 A. A customer dropped off their vehicle.  
 21 Another technician, I guess, did some service to  
 22 it, but I guess they put on the wrong tires.  
 23 And that technician left. This customer dropped  
 24 off the vehicle. And I came to do my shift in

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1 the afternoon and the customer was there to pick  
 2 up the vehicle. The customer complained to the  
 3 manager. The manager came at me, Can you solve  
 4 this problem for me? And the customer is still  
 5 upset. So I said, Yeah, sure.  
 6 I took the vehicle in and corrected,  
 7 started to correct the problem while this upset  
 8 customer was waiting by his vehicle just upset  
 9 and obnoxious. And I remember he called me a  
 10 Chink. He swore at me. That was it. And the  
 11 customer complained.  
 12 Q. What did you say?  
 13 A. I shouldn't have, but I know I swore  
 14 back at him.  
 15 Q. Did you swear at him?  
 16 A. Yes, after he called me a Chink  
 17 though.  
 18 Q. When you said a manager came to you  
 19 and asked you if you could correct the problem,  
 20 by problem, you mean put the right tires on the  
 21 car?  
 22 A. To the best of my knowledge, that's  
 23 what I remember. It was tire work.  
 24 Q. Something was wrong with the tires,

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1 and you needed to fix it?  
 2 A. All four tires.  
 3 Q. Do you remember what manager it was  
 4 that came and asked you to fix the tires?  
 5 A. I don't remember.  
 6 Q. And do you remember signing this  
 7 statement?  
 8 A. Yes. I remember signing this.  
 9 Q. I'm going to show you what's been  
 10 marked as Exhibit No. 6.  
 11 (Pause)  
 12 Q. Have you had time to look at it?  
 13 A. I'm starting to look at it now.  
 14 Q. Let me know when you're all set.  
 15 (Pause)  
 16 A. Okay. What is it?  
 17 Q. I've shown you a document that's  
 18 titled Documentation of Performance Issues. Do  
 19 you see, if you look up on the top left-hand  
 20 side of the document, there's a box with a  
 21 checkmark next to Final Warning? Do you see  
 22 that?  
 23 A. Yes.  
 24 Q. And the date on that final warning is

Page 116

1 10/2/03. Do you see that?  
 2 A. Okay.  
 3 Q. Do you see that?  
 4 A. Yeah, I see it.  
 5 Q. If you look back at Exhibit No. 5, the  
 6 date on the bottom of that exhibit is also  
 7 10/2/03; is that correct?  
 8 A. I see it, yes.  
 9 Q. Would you assume this warning is the  
 10 same warning, reflects the same warning that you  
 11 signed the statement for on Exhibit No. 5?  
 12 MR. OLSON: Can I have a second?  
 13 MS. TRAN: I'd actually prefer he  
 14 answer before you go take --  
 15 A. Repeat your question.  
 16 Q. Would you assume this warning, this  
 17 documentation of performance issues, reflects  
 18 the same warning that's discussed in the  
 19 statement that you signed in Exhibit 5 since  
 20 they're dated the same day?  
 21 A. I don't recall this one (indicating).  
 22 I know I signed this one (indicating).  
 23 Q. You signed this one, but you've never  
 24 seen this one (indicating)?

29 (Pages 113 to 116)



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1 A. I don't know what this is.  
 2 MR. CLOHERTY: The record is not going  
 3 to reflect what this and this is.  
 4 Q. You signed Exhibit No. 5, but you've  
 5 never seen Exhibit No. 6; is that correct?  
 6 A. I don't know about this one  
 7 (indicating).  
 8 Q. When you say "this one," do you mean  
 9 Exhibit No. 6?  
 10 A. Sure.  
 11 Q. Sure or yes?  
 12 A. Yes.  
 13 Q. So you've never seen Exhibit No. 6; is  
 14 that correct?  
 15 A. Correct.  
 16 Q. But you've seen and signed  
 17 Exhibit No. 5?  
 18 A. Yeah. I remember this one. I  
 19 remember Exhibit No. 5, yeah.  
 20 Q. Other than the warning that you were  
 21 given on October 2, 2003, were you given any  
 22 other warnings for swearing prior to your  
 23 termination?  
 24 A. Say that again.

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1 Q. Other than the warning you were given  
 2 on October 2, 2003 as reflected in Exhibit 5,  
 3 were you given any other warnings for swearing  
 4 prior to your termination?  
 5 A. No.  
 6 Q. So that's the only warning you were  
 7 given; is that correct?  
 8 A. This one right here, Exhibit No. 5.  
 9 Q. Exhibit No. 5.  
 10 MS. TRAN: Did you want to talk to  
 11 him?  
 12 MR. OLSON: Are you going to have any  
 13 further questions on Exhibit No. 6?  
 14 MS. TRAN: Yes.  
 15 MR. OLSON: Yes.  
 16 (Counsel conferred with witness)  
 17 MS. TRAN: Kurt, I'm just going to  
 18 finish the questions about this on the  
 19 termination and then we can probably stop for  
 20 lunch.  
 21 MR. OLSON: It's up to you. We were  
 22 saying we could go right through.  
 23 MS. TRAN: I'm going to need something  
 24 even if it's a half an hour.

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1 BY MS. TRAN:  
 2 Q. Looking at Exhibit No. 6, Eric, the  
 3 second page of Exhibit No. 6?  
 4 A. Mm-hmm.  
 5 Q. Where it says, For termination only,  
 6 dash, approval signatures. Do you see that?  
 7 A. Yes.  
 8 Q. The date, is that October 16, 2003?  
 9 A. From what I see, yeah, 10/16/03.  
 10 Q. Is that the date you were terminated?  
 11 A. I don't know. Was it?  
 12 Q. I'm asking you. To the best of your  
 13 recollection, do you remember if that's the date  
 14 you were terminated?  
 15 A. I honestly don't remember.  
 16 Q. Do you have any reason to think it  
 17 wasn't the date you were terminated?  
 18 A. I honestly don't know.  
 19 Q. Just so I have an accurate  
 20 understanding of what happened leading up to  
 21 your termination, you were involved in a  
 22 swearing incident on what appears to be  
 23 September 29, 2003 with the customer who called  
 24 you a racial slur; is that correct?

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1 A. Correct. From what I see, yes.  
 2 Q. Are you looking at Exhibit 5?  
 3 A. Yes. Is that it?  
 4 Q. Yes. That's what I'm looking at. To  
 5 the best of your recollection, is that  
 6 approximately the date that you were involved in  
 7 that incident?  
 8 A. I honestly don't remember the date of  
 9 the incident, but...  
 10 Q. But you have no reason to think it  
 11 wasn't that day?  
 12 A. I have no reason to think it wasn't  
 13 that day.  
 14 Q. As a result of that incident, you  
 15 received a warning for swearing at the customer;  
 16 is that correct?  
 17 A. This right here, right (indicating)?  
 18 Q. By "right here," are you referring to  
 19 Exhibit 5?  
 20 A. Yes.  
 21 Q. As a result of that incident on  
 22 September 29, you received a warning for  
 23 swearing at the customer; is that correct?  
 24 A. Correct.

30 (Pages 117 to 120)

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1 Q. And then after that incident -- and,  
2 I'm sorry, that warning appears to have been  
3 given on October 2, 2003; is that correct?  
4 A. From what I see on the Exhibit No. 5,  
5 correct.  
6 Q. And you have no reason to think that  
7 wasn't the date you were given the warning,  
8 correct?  
9 A. Correct.  
10 Q. After that incident, there was a  
11 separate incident with a Mrs. Lacroix, another  
12 customer, where one of the Sears employees swore  
13 at her; is that correct?  
14 A. Correct.  
15 Q. And according to Page 2 of  
16 Exhibit No. 7, she told somebody at Sears that  
17 you were the one that swore at her; is that  
18 accurate? Not whether or not you weren't the  
19 one that swore at her but that she told somebody  
20 at Sears?  
21 A. I don't know what happened over the  
22 phone.  
23 Q. But based on this statement, it  
24 appears she told somebody at Sears that you

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1 swore at her?  
2 A. From what this document says, that's  
3 what it looks like.  
4 Q. By "this document," we're referring to  
5 the second page of Exhibit 7?  
6 A. Second page of Exhibit No. 7.  
7 Q. And as a result of the incident with  
8 this customer on October 14, 2003, you were  
9 terminated, your employment at Sears was  
10 terminated; is that correct?  
11 A. I was terminated for this incident,  
12 yes.  
13 Q. And your termination occurred on  
14 October 16, 2003, two days after that swearing  
15 incident?  
16 A. Is that right?  
17 Q. I'm asking you.  
18 A. I don't remember.  
19 Q. But you have no reason to think  
20 October 16 wasn't the day that you were  
21 terminated?  
22 A. It's a possibility, correct.  
23 Q. It's your understanding that you were  
24 terminated because of that swearing incident on

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1 October 14; is that correct?  
2 A. I believe so, which I didn't swear  
3 though.  
4 Q. Right. What I'm asking you is, is it  
5 your understanding that you were terminated as a  
6 result of that incident? I'm not asking whether  
7 or not you swore at her. I'm simply asking is  
8 it your understanding that your employment at  
9 Sears was terminated as a result of that  
10 incident on October 13, 2003?  
11 A. Correct.  
12 MS. TRAN: Why don't we take a lunch  
13 break now because it's a good time.  
14 (Lunch recess taken)  
15 BY MS. TRAN:  
16 Q. Eric, shortly after your termination  
17 from Sears, is it your understanding that there  
18 was an oil spill at Sears?  
19 A. I was informed of.  
20 Q. You were informed that there was an  
21 oil spill at Sears?  
22 A. Yeah, the citation (indicating).  
23 Q. When were you informed of it?  
24 A. When I received the citation.

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1 Q. From whom did you receive the  
2 citation?  
3 A. In the mail.  
4 Q. That's the first time that you heard  
5 of the oil spill?  
6 A. Correct.  
7 Q. Do you remember how long after your  
8 termination you received the citation?  
9 A. No, I don't remember.  
10 Q. Do you know when the oil spill  
11 occurred?  
12 A. No.  
13 Q. Do you know how much oil was spilled?  
14 A. No.  
15 Q. Do you know any of the circumstances  
16 surrounding the oil spill?  
17 A. I don't understand.  
18 Q. Do you know how the oil was spilled,  
19 how it was cleaned up?  
20 A. Oh, no.  
21 Q. You don't have any knowledge of how it  
22 was spilled or how it was cleaned or when the  
23 spill occurred?  
24 A. No.

31 (Pages 121 to 124)

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1 Q. You said that you had to return a  
2 pickup truck to John Baldi, Jr., the day you  
3 were terminated; is that correct?  
4 A. Correct.  
5 Q. Where did you return that truck to  
6 him?  
7 A. Sears.  
8 Q. The Sears in Saugus?  
9 A. Yes.  
10 Q. Did you go inside the Sears that  
11 night?  
12 A. To give him the keys and to check out  
13 my toolbox, yes.  
14 Q. And this is after you had been  
15 terminated?  
16 A. Correct.  
17 Q. You said you went into the Sears. And  
18 by going into the Sears, you mean the Sears  
19 Automotive Center?  
20 A. Correct.  
21 Q. And you went in to give him the keys?  
22 A. Correct.  
23 Q. "Him" being John Baldi, Jr.?  
24 A. Yes.

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1 Q. And you also did what?  
2 A. Check on my toolbox.  
3 Q. What do you mean by check on your  
4 toolbox?  
5 A. When I was employed at Sears, I had a  
6 toolbox there where I kept my tools. And when I  
7 got terminated, I left it there. I didn't take  
8 it with me because I had no means of  
9 transportation. That is one of the reasons why  
10 I borrowed the pickup truck from John.  
11 Q. You borrowed the pickup truck to  
12 remove your tools?  
13 A. To remove belongings from my house.  
14 Q. Remove what belongings from your  
15 house?  
16 A. I was moving that day.  
17 Q. You were moving into a new apartment?  
18 A. Correct.  
19 Q. Where were you moving to?  
20 A. Autumn Street.  
21 Q. I'm sorry, what was that?  
22 A. 39 Autumn Street.  
23 Q. In what city?  
24 A. Lynn, Mass.

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1 Q. How long did you live at 29 Autumn  
2 Street?  
3 A. Not long.  
4 Q. How long?  
5 A. Probably maybe a week.  
6 Q. Was it a place that you rented or that  
7 you --  
8 A. No, my cousin.  
9 Q. So you were living with your cousin  
10 for about a week?  
11 A. Yes, correct.  
12 Q. Where did you move after Autumn  
13 Street?  
14 A. Back home.  
15 Q. When we went over your current and  
16 past residences at the beginning of the  
17 deposition, you didn't mention living with your  
18 cousin on Autumn Street.  
19 A. I felt that there was no need to. It  
20 was only for a week, and I really didn't  
21 transfer my address or nothing like that. It  
22 was like a trial thing if I wanted to move in  
23 seriously with him or not.  
24 Q. And you said you went back home after

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1 you lived at Autumn Street, correct?  
2 A. Yes.  
3 Q. With your parents?  
4 A. Yes.  
5 Q. Where did they live?  
6 A. 12 Eutaw Ave.  
7 Q. Where do you currently reside?  
8 A. Where am I living right now?  
9 Q. Yes.  
10 A. 12 Eutaw Ave.  
11 Q. You said that 12 Eutaw Ave. is an  
12 apartment that you rented; is that correct?  
13 A. No. I live there with my parents.  
14 Q. I believe you testified earlier that  
15 it was a place that you rented, but maybe my  
16 memory is incorrect.  
17 So 12 Eutaw Ave. --  
18 A. I do pay rent.  
19 Q. Let me finish my question.  
20 12 Eutaw Ave. where you currently  
21 reside is an apartment rented by your parents?  
22 A. Yes.  
23 Q. And your girlfriend and your daughter  
24 live with you there with your parents?

32 (Pages 125 to 128)

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1 A. Correct.  
 2 Q. Is it a single apartment?  
 3 A. Yes, it is.  
 4 Q. How many bedrooms?  
 5 A. It's two bedrooms.  
 6 Q. So do you, your daughter and your  
 7 girlfriend all share the same bedroom?  
 8 A. Correct.  
 9 Q. Getting back to the night of your  
 10 termination, after you returned the keys to John  
 11 Baldi, Jr., and checked on your toolbox, what  
 12 did you do?  
 13 A. There was a lot of trash in my  
 14 toolbox, so I swept that out. And there was an  
 15 oil thing next to my toolbox, so I pushed that  
 16 out of the way.  
 17 Q. What do you mean by "oil thing"?  
 18 A. An oil container.  
 19 Q. How big was the oil container?  
 20 A. It sits in a gallon, and there's a  
 21 nozzle that shoots straight up so you can dump  
 22 the oil in. To be honest, I don't even know.  
 23 Q. Is it a gallon? Is it a barrel of  
 24 oil, when you say an oil container?

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1 A. Maybe a gallon or two.  
 2 Q. It holds a gallon or two or there was  
 3 a gallon or two of oil in there?  
 4 A. I don't know how much was in there.  
 5 It holds a gallon or two.  
 6 Q. Is it the size of an oil barrel or an  
 7 oil drum or is it smaller than that?  
 8 A. Smaller than that.  
 9 Q. Is it on wheels?  
 10 A. Yes, it's on wheels.  
 11 Q. Is it like a tray?  
 12 A. What do you mean by tray?  
 13 Q. Is it a tray that holds oil? What  
 14 does the container look like?  
 15 A. Like, you know the Poland Spring  
 16 refill bottles that you put on the machine?  
 17 Q. The ones that go into the water  
 18 dispensers?  
 19 A. Yes, exactly like that that's sitting  
 20 upright, and there's a long shaft that sticks up  
 21 and a big funnel.  
 22 Q. A big funnel that goes into the top of  
 23 the container?  
 24 A. Yes.

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1 Q. Okay. So you pushed that out of the  
 2 way. What did you do next?  
 3 A. As I pushed that oil dispenser, it  
 4 tripped over a lift and it fell. So I turned  
 5 around quickly and I seen that it fell and oil  
 6 was spilling.  
 7 Q. Yes.  
 8 A. So I went over there, I picked it up,  
 9 and I cleaned up the oil spill.  
 10 Q. Did you inform anybody at Sears that  
 11 you had spilled the oil?  
 12 A. John Baldi Jr., seen it.  
 13 Q. Did you inform anybody else?  
 14 A. That was it.  
 15 Q. You didn't inform Sears management  
 16 that you tripped over the oil?  
 17 A. No. I cleaned it up. It wasn't much.  
 18 Q. What happened next?  
 19 A. I left.  
 20 Q. Did you see anybody else when you were  
 21 there that night?  
 22 A. Jose was there. He was doing an  
 23 alignment.  
 24 Q. Did you see Jose?

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1 A. Yeah. I seen him.  
 2 Q. Did you talk to him?  
 3 A. A quick meet and greet.  
 4 Q. What did you say?  
 5 A. I'm out of here.  
 6 Q. Did you say anything else?  
 7 A. Just, yeah, that's what I said.  
 8 Q. Yes you said something else, or no you  
 9 didn't say anything else?  
 10 A. Yeah, I'm out of here. Don't say  
 11 nothing. I'm out.  
 12 Q. Don't say nothing about what?  
 13 A. About me being there.  
 14 Q. Why wouldn't you want Jose to say  
 15 anything about you being there?  
 16 A. Because that's how I felt at the  
 17 moment.  
 18 Q. Why?  
 19 A. That's how I felt. I didn't want  
 20 nobody to know I was around.  
 21 Q. Why didn't you want anybody to know  
 22 you were around?  
 23 A. Because I never been terminated in  
 24 that way.

33 (Pages 129 to 132)



Page 133

1 Q. So why wouldn't you want anybody to  
2 know that you were around?  
3 A. Because I was terminated.  
4 Q. So you didn't want anybody to know  
5 that you were on the premises after your  
6 termination?  
7 A. Basically, yeah. It's kind of  
8 embarrassing when you're terminated, especially  
9 a false termination.  
10 Q. Did you do anything else when you  
11 left?  
12 A. I said bye to Jose, I said bye to John  
13 Baldi, Jr., and I went on my way.  
14 Q. Did you have any contact with Sears or  
15 any Sears employees between the time you left  
16 that night and when you received the citation in  
17 the mail regarding the oil spill?  
18 A. No.  
19 Q. No contact with any Sears employees  
20 between that time?  
21 A. To the best of my knowledge, no.  
22 MS. TRAN: Let's mark that as the next  
23 exhibit. I believe this is going to be  
24 Exhibit 9.

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1 (Exhibit 9 marked  
2 for identification)  
3 Q. Eric, you've just been handed what's  
4 been marked as Exhibit No. 9 which is -- well,  
5 have you ever seen this document before?  
6 A. I don't remember.  
7 Q. Take a look at it, and let me know  
8 when you're done.  
9 (Pause)  
10 A. I remember it now.  
11 Q. What is it?  
12 A. It's a bunch of questions, right?  
13 Q. No.  
14 A. You tell me.  
15 Q. I'm asking you. As you look at it, do  
16 you know what this document is?  
17 A. Something to do with the court system,  
18 right?  
19 Q. I need you to answer me yes or no. I  
20 can't answer your questions regarding the  
21 document.  
22 Do you know what this document is as  
23 you look at it today? Have you seen it before,  
24 Eric?

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1 A. I think I did.  
2 Q. Is this the complaint that you filed  
3 in the lawsuit against Sears?  
4 A. Yeah.  
5 Q. If you turn to Page 4, Paragraph 19?  
6 A. Yes.  
7 Q. It says, At closing time on or about  
8 October 16, 2003 management of the automotive  
9 section of the Saugus store observed a spill of  
10 waste oil, paren, less than 30 gallons, close  
11 paren, on the floor of the oil change bay. The  
12 spill was confined to the bay by the lack of  
13 volume in the spill, a drain in the bay floor,  
14 and the slope of the floor towards the drain.  
15 Is that an accurate reading of that  
16 paragraph?  
17 A. Yeah. You read it correctly.  
18 Q. How do you have knowledge about the  
19 oil spill that happened on the evening of  
20 October 16?  
21 A. The citation I received in the mail.  
22 Q. And the citation said all of these  
23 things that are itemized in Paragraph 19?  
24 A. It says destruction of property.

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1 Q. So then how do you know that the oil  
2 spill happened on October 16 and that it was  
3 confined to the bay by a lack of volume in the  
4 spill, a drain in the bay floor, and by the  
5 slope of the floor?  
6 A. I hired a lawyer.  
7 Q. To your knowledge, on what do you base  
8 the facts -- on what do you base this allegation  
9 in the complaint, Paragraph 19?  
10 A. Say that again.  
11 Q. What facts do you have to support  
12 Paragraph 19 of the complaint?  
13 A. I got no facts.  
14 Q. So you don't know any of the  
15 circumstances regarding the oil spill that  
16 happened on October 16, is that correct, the one  
17 described in Paragraph 19?  
18 A. No.  
19 Q. Do you have any facts to support  
20 Paragraph 20 in which you state, Management of  
21 the automotive section made the decision to  
22 leave the spill in place until the following  
23 morning, October 17, 2003, at which time an  
24 employee was assigned to clean up the spill?

34 (Pages 133 to 136)

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1 A. What was the question again?  
 2 Q. Do you have any facts to support that  
 3 statement?  
 4 A. No.  
 5 Q. Where did you learn --  
 6 A. I hired a lawyer.  
 7 Q. That doesn't answer my question.  
 8 Where did you learn the information contained in  
 9 that statement?  
 10 A. I hired a lawyer, and he told me. He  
 11 gave me the facts.  
 12 MR. CLOHERTY: Don't get into your  
 13 discussions with your lawyer.  
 14 Q. I want to know where you learned. If  
 15 you learned it from your lawyer, just say, I  
 16 learned it from my lawyer. I don't want to know  
 17 the specifics of any conversation you had with  
 18 your lawyer.  
 19 A. That's what I'm saying. I learned it  
 20 from my lawyer.  
 21 Q. So you have no independent facts that  
 22 you know, not through communications with your  
 23 lawyer, that support this statement; is that  
 24 correct?

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1 A. Correct.  
 2 Q. Same thing with Paragraph 21, do you  
 3 have any independent facts to support that  
 4 paragraph, facts that you learned not through  
 5 conversations with any lawyer?  
 6 A. No.  
 7 Q. Do you know any of the details  
 8 regarding the oil spill?  
 9 A. Say that again.  
 10 Q. Do you know any of the details  
 11 regarding the oil spill? Did you see the oil  
 12 spill?  
 13 A. No.  
 14 Q. Did you help clean up the oil spill?  
 15 A. The one I did?  
 16 Q. The one that's alleged in your  
 17 complaint.  
 18 A. No.  
 19 Q. In Paragraph 23 you state, When it  
 20 became apparent that the spill was now an  
 21 environmental cleanup situation, defendant  
 22 William Sullivan threatened the employees of the  
 23 automotive department with being fired if they  
 24 did not confirm that the plaintiff was the party

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1 who caused the waste oil to flow into the  
 2 parking lot.  
 3 Is that an accurate reading of that  
 4 paragraph?  
 5 A. You read it right.  
 6 Q. On what do you base your allegation  
 7 that William Sullivan threatened employees of  
 8 automotive department? What facts do you have  
 9 to support that allegation?  
 10 A. I got no facts.  
 11 Q. So did you ever hear William Sullivan  
 12 threaten employees of the automotive department?  
 13 A. No.  
 14 Q. Did anybody ever tell you that William  
 15 Sullivan threatened employees of the automotive  
 16 department?  
 17 A. No.  
 18 Q. Do you know who William Sullivan is?  
 19 A. No.  
 20 Q. Have you ever met William Sullivan?  
 21 A. No.  
 22 Q. On what do you base that allegation?  
 23 A. Say that again.  
 24 Q. What facts do you have to support

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1 Paragraph No. 23?  
 2 A. I have no facts.  
 3 Q. In Paragraph 25 you state that  
 4 defendant Mansfield created a report falsely  
 5 stating that the ethnicity of the plaintiff was  
 6 unknown, the waste oil had a value of \$3,000 so  
 7 the plaintiff could be charged with the felony  
 8 of malicious destruction of property over \$250,  
 9 and defendant Coviello and a Mr. Jose Hernandez  
 10 had witnessed the spill.  
 11 Is that an accurate reading of that  
 12 paragraph?  
 13 A. You read that accurately.  
 14 Q. What evidence do you have to suggest  
 15 that Officer Mansfield created a false report  
 16 stating that the ethnicity of the plaintiff was  
 17 unknown?  
 18 A. The citation.  
 19 Q. Do you have any reason to believe that  
 20 Officer Mansfield knew what your ethnicity was?  
 21 A. I don't understand that.  
 22 Q. You allege Officer Mansfield created a  
 23 false report and that part of that falseness was  
 24 that he wrote that your ethnicity was unknown.

35 (Pages 137 to 140)

Page 141

1 Do you understand that?  
 2 A. Not really.  
 3 Q. Can you read Paragraph 25 for me to  
 4 yourself.  
 5 A. Ethnicity.  
 6 Q. What is your understanding of what  
 7 ethnicity is?  
 8 A. I don't understand that question.  
 9 Q. What is your understanding of the  
 10 allegations contained in Paragraph No. 25?  
 11 A. I don't understand that word.  
 12 Q. Do you believe Officer Mansfield  
 13 created a false police report?  
 14 A. Yeah, I think so.  
 15 Q. On what do you base that belief?  
 16 A. Because I didn't know what the heck  
 17 was going on with that citation that they sent  
 18 me in the mail.  
 19 Q. Understanding you didn't know why you  
 20 got the citation, on what do you base the belief  
 21 that officer Mansfield created a false police  
 22 report?  
 23 A. The citation was for me that I didn't  
 24 know nothing about.

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1 Q. I don't understand your answer.  
 2 On what do you base the belief that  
 3 Officer Mansfield created a false police report?  
 4 Very specifically in Paragraph 25 you  
 5 allege the police report was false because it  
 6 stated that the ethnicity of the plaintiff was  
 7 unknown because it stated that the waste oil had  
 8 a value of \$3,000 and because it stated that  
 9 Coviello and Mr. Jose Hernandez had witnessed  
 10 the spill.  
 11 Have you ever seen a police report  
 12 issued by Officer Mansfield that stated those  
 13 things?  
 14 A. I don't remember.  
 15 Q. As you sit here today, you don't have  
 16 any memory of seeing a police report written by  
 17 Officer Mansfield that stated those things; is  
 18 that correct?  
 19 A. I don't remember. I might have, but I  
 20 don't remember.  
 21 Q. So do you have any knowledge as to  
 22 whether or not Officer Mansfield created a false  
 23 report stating these things that you allege in  
 24 Paragraph 25?

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1 A. I feel it was false.  
 2 Q. On what do you base your belief that  
 3 it's false?  
 4 A. Because I was getting a citation for  
 5 something I didn't do.  
 6 Q. Okay.  
 7 A. I don't understand.  
 8 Q. Let's go back to that. Actually, you  
 9 know what, let's stay with this.  
 10 You understand that you filed a  
 11 lawsuit against Sears, a bunch of named  
 12 defendants, and Officer Mansfield, correct?  
 13 A. Correct.  
 14 Q. And you understand that as part of  
 15 that lawsuit you've alleged that each of those  
 16 people did certain things, correct?  
 17 A. I guess so.  
 18 Q. Is that your understanding?  
 19 A. I don't understand.  
 20 Q. What don't you understand?  
 21 A. What are you asking me? If these  
 22 people were in the events of that day?  
 23 Q. No. I'm asking you as a general  
 24 matter, you understand that when you filed this

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1 lawsuit against Sears, the named defendants, and  
 2 Officer Mansfield that you made allegations  
 3 about what each of those people did; is that  
 4 correct?  
 5 A. That's correct.  
 6 Q. One of the things that you've alleged  
 7 is that Officer Mansfield created a report  
 8 falsely stating that the ethnicity of the  
 9 plaintiff was unknown; is that correct?  
 10 A. Correct.  
 11 Q. What evidence do you have to support  
 12 that?  
 13 A. I got no evidence, I guess.  
 14 Q. Thank you.  
 15 Page 7 of the complaint -- actually,  
 16 Page 6, the last paragraph on Page 6 going into  
 17 Page 7, paragraphs numbered 32 and 33, can you  
 18 read Paragraph 33 to yourself, please, for me.  
 19 Let me know when you're done.  
 20 (Pause)  
 21 A. To 33 also?  
 22 Q. Yes.  
 23 (Pause)  
 24 Q. All set?

36 (Pages 141 to 144)

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1 A. Yes. I read it.  
 2 Q. In Paragraph 33 you allege that Sears,  
 3 William Sullivan, Kevin Sullivan, Richard  
 4 Spellman, Barbara Tagliarino, Gary Mansfield and  
 5 Alicia Coviello conspired to interfere with your  
 6 civil rights by obstructing justice.  
 7 Do you understand that?  
 8 A. Somewhat.  
 9 Q. What evidence do you have to support  
 10 that allegation?  
 11 A. I have no evidence.  
 12 Q. What facts do you have to support any  
 13 conspiracy between those parties?  
 14 A. I don't know.  
 15 Q. Do you have any facts to support a  
 16 conspiracy between those parties?  
 17 A. I honestly don't know.  
 18 Q. You don't know if you have facts to  
 19 support a conspiracy between those parties?  
 20 A. Correct.  
 21 Q. So as you sit here today, you can't  
 22 tell me whether or not you have any facts that  
 23 supports a conspiracy between those parties to  
 24 interfere with your civil rights?

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1 A. Correct. I don't understand it.  
 2 Q. What don't you understand?  
 3 A. Basically what you're telling me,  
 4 you're asking me.  
 5 Q. I'm asking you do you have any  
 6 evidence to support that Sears, Roebuck & Co.,  
 7 William Sullivan, Kevin Sullivan, Richard  
 8 Spellman, Barbara Tagliarino, Barry Mansfield  
 9 and Alicia Coviello conspired to interfere with  
 10 your civil rights? What evidence do you have to  
 11 support that allegation?  
 12 A. I'm telling you I don't know.  
 13 Q. You don't know or you don't have any?  
 14 A. I don't know.  
 15 Q. You don't know if you have any  
 16 evidence to support that allegation?  
 17 A. Yeah.  
 18 Q. Then on what do you base that  
 19 allegation? On what do you base that  
 20 allegation?  
 21 A. I don't understand.  
 22 Q. If you don't know if it's true, how  
 23 can you make the allegation?  
 24 A. Then I must have something.

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1 Q. What do you have?  
 2 A. A document or something.  
 3 Q. What do you have?  
 4 A. A document or something.  
 5 Q. Where is the document? What document  
 6 do you have?  
 7 A. It's in my pocket. I don't know.  
 8 Q. Let me see.  
 9 A. I honestly don't know. I don't  
 10 remember.  
 11 Q. You don't remember whether or not they  
 12 conspired against you?  
 13 A. They probably did, I guess.  
 14 Q. They probably did, but you don't know?  
 15 A. Mm-hmm.  
 16 Q. Is that accurate?  
 17 A. Correct.  
 18 Q. You understand that you filed a  
 19 lawsuit claiming that they did conspire against  
 20 you, correct?  
 21 A. Correct. All right.  
 22 Q. Yet you don't have any knowledge of  
 23 whether or not they actually conspired against  
 24 you; is that correct?

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1 A. That shouldn't be correct.  
 2 Q. What shouldn't be correct?  
 3 A. What you just said.  
 4 Q. What?  
 5 A. Here. It's all false.  
 6 Q. What's all false?  
 7 A. Whatever this says, I guess.  
 8 Q. I don't understand, Eric. What is  
 9 false?  
 10 A. I don't understand you either.  
 11 That's...  
 12 Q. What is false?  
 13 A. Whatever -- see, I'm lost here.  
 14 Q. I'll ask it very simply. You've  
 15 alleged that the Sears, Roebuck & Co., William  
 16 Sullivan, Kevin Sullivan, Richard Spellman,  
 17 Barbara Tagliarino, Gary Mansfield and Alicia  
 18 Coviello conspired to interfere with your civil  
 19 rights.  
 20 Do you understand that you made that  
 21 allegation?  
 22 A. Yeah.  
 23 Q. What evidence do you have to support  
 24 that they conspired to interfere with your civil

37 (Pages 145 to 148)



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1 rights?  
 2 A. Some type of document, I guess.  
 3 Q. Eric, what evidence do you have to  
 4 support that they conspired and interfered with  
 5 your civil rights?  
 6 A. None, I guess. I don't know.  
 7 Q. None, you guess, or none?  
 8 A. I'm lost right now.  
 9 Q. Why are you lost?  
 10 A. I don't know. I don't understand the  
 11 question.  
 12 Q. What don't you understand?  
 13 A. Like, you keep asking me for  
 14 documents.  
 15 Q. I'm not asking you for documents. I'm  
 16 asking you what evidence, what do you know? Do  
 17 you have any knowledge or any facts to support  
 18 your allegation that those parties listed in  
 19 Paragraph 33 conspired and interfered with your  
 20 civil rights? What knowledge do you have to  
 21 support that allegation?  
 22 A. The citation I received in the mail.  
 23 Q. That's the only thing you have to  
 24 support the allegation that they conspired and

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1 interfered with your civil rights?  
 2 A. Yes.  
 3 Q. So on the basis of a citation you  
 4 received from the Commonwealth of Massachusetts,  
 5 you've determined that the parties listed in  
 6 Paragraph No. 33 conspired together to interfere  
 7 with your civil rights?  
 8 A. Yes.  
 9 Q. Going down to Paragraph No. 36, can  
 10 you read that paragraph for me?  
 11 A. Can I stop and take a break?  
 12 Q. Absolutely.  
 13 (Recess taken)  
 14 BY MS. TRAN:  
 15 Q. We've been looking at the complaint.  
 16 I understand you're not an attorney, and you  
 17 didn't draft this document. So if there's any  
 18 confusion, please stop me. I'll try to break it  
 19 down so that it's a good question.  
 20 A. You already confused me twice. I  
 21 don't know.  
 22 Q. Going back to Paragraph No. 33?  
 23 A. Yeah.  
 24 Q. Do you know of any agreement between

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1 any Sears employees to interfere with your  
 2 rights?  
 3 A. Like an employee interfere with my  
 4 rights?  
 5 Q. Anybody employed by Sears to interfere  
 6 with your rights. Do you know if anybody  
 7 employed by Sears agreed to interfere with your  
 8 rights?  
 9 A. No.  
 10 Q. Moving down to Paragraph No. 36, do  
 11 you want to take a second to review that very  
 12 quickly.  
 13 (Pause)  
 14 A. Okay.  
 15 Q. Do you know of any agreement between  
 16 any Sears employee or any of the people listed  
 17 in that paragraph to interfere with your rights?  
 18 A. Yes.  
 19 Q. What agreement do you know of?  
 20 A. The citation I got.  
 21 Q. So you believe that that citation is  
 22 evidence of an agreement between Sears employees  
 23 to interfere with your rights; is that accurate?  
 24 A. Yeah. The citation does interfere my

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1 rights.  
 2 Q. I'm asking you what your understanding  
 3 of it is. So if it's your understanding that  
 4 the citation is evidence of an agreement, that's  
 5 all I need to know. Is that your understanding?  
 6 A. No.  
 7 Q. No. That's not your understanding?  
 8 A. Yes.  
 9 Q. We're getting tripped up by the double  
 10 negatives, so let's be clear.  
 11 Is it your testimony the only evidence  
 12 you have of any agreement between any Sears  
 13 employees to interfere with your rights is that  
 14 citation that you were issued?  
 15 A. Correct.  
 16 Q. Going backwards in the complaint to  
 17 Page No. 4, Paragraph No. 16, can you read that  
 18 paragraph for me.  
 19 (Pause)  
 20 A. Okay.  
 21 Q. Is that paragraph referencing the  
 22 comments made to you by Sal that you testified  
 23 about earlier?  
 24 A. Correct.

38 (Pages 149 to 152)

Page 153

1 Q. Did anybody else employed by Sears  
2 ever call you a Gook?  
3 A. Other than Sal?  
4 Q. Correct.  
5 A. No.  
6 Q. Still on Page 4, Paragraph 17, can you  
7 read Paragraph 17 for me?  
8 (Pause)  
9 Q. In that paragraph it states in October  
10 of 2003 defendant Sears, Roebuck & Co., through  
11 it's management, fired the plaintiff without  
12 explanation after he exercised his 1st Amendment  
13 right to free speech with a fellow employee.  
14 Is that an accurate reading of that  
15 paragraph?  
16 A. Yes, it is.  
17 Q. Were you actually fired without an  
18 explanation?  
19 A. Correct.  
20 Q. Didn't you testify earlier that when  
21 you were terminated, you were told that you were  
22 being terminated because you swore at a  
23 customer?  
24 A. From what they told me, yes.

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1 Q. That's what they told you?  
2 A. Yes.  
3 Q. So you were, in fact, provided with an  
4 explanation when you were terminated?  
5 A. Basically, yes.  
6 Q. Going down to No. 18, can you read  
7 Paragraph 18 for me to yourself.  
8 (Pause)  
9 Q. All set?  
10 A. Yes.  
11 Q. In Paragraph 18 the paragraph states,  
12 The plaintiff was fired for something he did not  
13 do, parens, allegedly swore at a customer, close  
14 parens, as a pretext for his dismissal for  
15 racial and ethnic prejudice by defendant Sears  
16 Roebuck & Co., and the management group in  
17 control of the Saugus store.  
18 Is that an accurate reading of that  
19 paragraph?  
20 A. That's what it says.  
21 Q. What evidence do you have to suggest  
22 that you were terminated as a result of your  
23 race?  
24 A. The argument with Sal.

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1 Q. Aside from that argument with Sal, do  
2 you have any other facts to support the  
3 allegation that you were terminated because of  
4 your race?  
5 A. No.  
6 Q. I want to talk a little bit about your  
7 prosecution for the malicious destruction of  
8 property. If you turn to Page 5, Paragraph 26,  
9 can you read that paragraph for me to yourself.  
10 (Pause)  
11 A. Mm-hmm.  
12 Q. Then can you also read Paragraph 27  
13 for me which is on Page 6.  
14 (Pause)  
15 A. Mm-hmm.  
16 Q. Those two paragraphs talk about  
17 testimony. Paragraph 26 talks about testimony  
18 bay Alicia Coviello, and 27 talks about a  
19 conversation you had with Jose Hernandez; is  
20 that correct?  
21 A. Yes.  
22 Q. Did those two things happen on  
23 separate days or the same day?  
24 A. The same day.

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1 Q. Do you remember how many times you  
2 were in court as a result of the charges brought  
3 against you for malicious destruction of  
4 property?  
5 A. Two to three times, maybe four.  
6 Q. And do you remember which time it was  
7 that you spoke with Jose?  
8 A. The first.  
9 Q. The first time?  
10 A. Yes.  
11 Q. And is it your understanding that Jose  
12 left without testifying that first day; is that  
13 correct?  
14 A. Correct.  
15 Q. Do you know why you were in court that  
16 first day? Do you remember?  
17 A. For the citation?  
18 Q. Yeah. Do you know specifically what  
19 the hearing was about that you were in court for  
20 that day?  
21 A. Destruction of property.  
22 Q. I understand that. There are  
23 different procedures that happen in criminal  
24 courts. I'm just asking whether or not you know

39 (Pages 153 to 156)

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1 which one you were there for that day.  
 2 A. Oh, yeah.  
 3 Q. What was it?  
 4 A. The citation I got in the mail for the  
 5 destruction of property.  
 6 Q. Did you ever see Jose in court on any  
 7 other times with regard to your malicious  
 8 destruction of property charge?  
 9 A. No.  
 10 Q. So it was just that one day that you  
 11 saw him there?  
 12 A. Yes.  
 13 Q. And it's your understanding he did not  
 14 testify that day; is that correct?  
 15 A. Yes.  
 16 Q. Do you know who John Baldi, Sr., is?  
 17 A. Yes.  
 18 Q. Who is he?  
 19 A. John Baldi, Jr.'s father.  
 20 Q. How do you know him?  
 21 A. Through John Baldi, Jr.  
 22 Q. Have you ever spoken with John Baldi,  
 23 Sr., regarding the circumstances surrounding  
 24 your termination or anything involved in this

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1 lawsuit?  
 2 A. Yes.  
 3 Q. What conversations have you had with  
 4 him about either of those things?  
 5 A. About what's going on with my  
 6 termination.  
 7 Q. Can you be more specific about what  
 8 you guys discussed?  
 9 A. I don't remember.  
 10 Q. Do you know when you had these  
 11 conversations with him?  
 12 A. I don't remember.  
 13 Q. Do you know how many times you spoke  
 14 with him about your lawsuit or your termination?  
 15 A. I don't remember.  
 16 Q. Have you ever talked with him about  
 17 the oil spill that happened at Sears that you  
 18 were charged with?  
 19 A. I don't remember.  
 20 (Exhibit 10 marked  
 21 for identification)  
 22 Q. I'm going to hand you what's been  
 23 marked as Exhibit No. 10. I've handed you  
 24 what's been marked as Exhibit No. 10 which is

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1 titled, Plaintiff's Disclosure Pursuant to LR  
 2 26.2(A) and LR 26.1(B)(1) & (2).  
 3 Understanding you're not an attorney,  
 4 you didn't draft these documents, I just want to  
 5 point you to the first page. Paragraph 3.  
 6 Subparagraph A. Do you see where I'm pointing  
 7 you to?  
 8 A. A.  
 9 Q. Are you looking on Page 1 of  
 10 Exhibit 10, at that part?  
 11 A. Yes.  
 12 Q. Do you see where it says underneath  
 13 John A. Baldi, This individual has knowledge of  
 14 the circumstances of the two oil spills that  
 15 occurred at Sears at the Square One Mall in  
 16 Saugus, Massachusetts?  
 17 A. Mm-hmm.  
 18 Q. Do you know what knowledge he has of  
 19 those spills?  
 20 (Pause)  
 21 A. Okay.  
 22 Q. Do you know what knowledge he has  
 23 about the spills?  
 24 A. That there was an oil spill at Sears.

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1 Q. Do you know anything else about what  
 2 he knows about them?  
 3 A. Not really.  
 4 Q. Looking down underneath that -- I'm  
 5 sorry, John A. Baldi is John Baldi, Sr., is that  
 6 correct?  
 7 A. Yes.  
 8 Q. And John W. Baldi is his son?  
 9 A. Yes.  
 10 Q. Looking down at Subparagraph B  
 11 underneath John W. Baldi it says, This  
 12 individual was a coworker of plaintiff and  
 13 witnessed one or both of the two oil spills. He  
 14 was also approached by agents of defendants and  
 15 told to lie about the circumstances of the two  
 16 spills.  
 17 Is that an accurate reading of that  
 18 paragraph?  
 19 A. You read it right.  
 20 Q. Do you know who supposedly approached  
 21 him and told him to lie about the two oil  
 22 spills?  
 23 A. No.  
 24 Q. Do you know what he was told to say?

40 (Pages 157 to 160)

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1 A. I don't think so. Wait. No, wait.  
 2 No. I don't remember.  
 3 Q. Okay. I'm going to hand you back  
 4 Exhibit No. 9. Looking again at  
 5 Paragraph No. 17, the paragraph states that you  
 6 were terminated after you exercised your 1st  
 7 Amendment right to free speech with a fellow  
 8 employee? Did you read that part?  
 9 A. Mm-hmm.  
 10 Q. Do you know what free speech with a  
 11 fellow employee is being referred to in that  
 12 paragraph?  
 13 A. Yes.  
 14 Q. Can you tell me what it is?  
 15 A. Just me.  
 16 Q. Did you have a conversation with a  
 17 fellow employee that you think precipitated --  
 18 that you think resulted in your termination?  
 19 A. Explain that one again.  
 20 Q. In the paragraph it states that you  
 21 believe you were terminated after exercising  
 22 your 1st Amendment right to free speech with a  
 23 fellow employee.  
 24 Did you read that part of the

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1 paragraph?  
 2 A. Yeah, I read it.  
 3 Q. What conversation with a fellow  
 4 employee did you have that you think resulted in  
 5 your termination?  
 6 A. The swearing.  
 7 Q. So the swearing with the customer  
 8 you're talking about?  
 9 A. Yes.  
 10 Q. Did you have any conversation with any  
 11 fellow employee that you think resulted in your  
 12 termination?  
 13 A. No.  
 14 Q. Did you say anything to any fellow  
 15 employee that you think resulted in your  
 16 termination?  
 17 A. I don't remember.  
 18 Q. Just give me one second.  
 19 (Pause)  
 20 Q. After your termination from Sears, how  
 21 long was it before you got another job?  
 22 A. About three months.  
 23 Q. Where was your job, the next job you  
 24 had after Sears?

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1 A. Firestone.  
 2 Q. And you started at Firestone, I  
 3 believe you testified earlier, in November of  
 4 2003; is that accurate?  
 5 A. Is that right?  
 6 Q. That's what you testified to  
 7 previously. Is that accurate?  
 8 A. Probably not.  
 9 Q. Do you remember when you started your  
 10 job at Firestone?  
 11 A. Between December or January.  
 12 Q. What's that?  
 13 A. Probably December or January.  
 14 Q. You testified previously that you  
 15 ended your employment at Firestone in January of  
 16 2004?  
 17 A. Yes, around that time frame. Probably  
 18 December I started maybe.  
 19 Q. So you started in December and ended  
 20 in January; is that correct?  
 21 A. Correct.  
 22 Q. What did you do in the two months  
 23 between the time you were terminated by Sears  
 24 and when you were hired by Firestone?

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1 A. Tried to collect unemployment and look  
 2 for work.  
 3 Q. Were you able to collect unemployment?  
 4 A. No.  
 5 Q. Do you know why?  
 6 A. They said I was terminated.  
 7 Q. Is Firestone the first job you were  
 8 offered after your employment with Sears?  
 9 A. Yes.  
 10 Q. What did you do to seek work after you  
 11 were terminated from Sears?  
 12 A. Continue looking for work.  
 13 Q. How did you look for work?  
 14 A. Got applications from local shops and  
 15 local stores.  
 16 Q. And filled out those applications?  
 17 A. Yes.  
 18 Q. And submitted them?  
 19 A. Most of them.  
 20 Q. Did you do this every day?  
 21 A. Tried to, yeah.  
 22 Q. Tried to or did?  
 23 A. I did it not every day, but...  
 24 Q. How frequently would you do that?

41 (Pages 161 to 164)



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1 A. Four times a week.  
 2 Q. How many shops do you think you  
 3 applied to before you were able to gain  
 4 employment at Firestone?  
 5 A. I don't remember. It was a few  
 6 though.  
 7 Q. By "a few," what do you mean?  
 8 A. A few.  
 9 Q. How many is a few, approximately?  
 10 A. I don't remember. It was a few.  
 11 Q. Did you do anything else besides fill  
 12 out applications?  
 13 A. As I said.  
 14 Q. What kinds of things did you do when  
 15 you worked on applications?  
 16 A. Searching for jobs online.  
 17 Q. In addition to filling out  
 18 applications, you also searched for jobs online?  
 19 A. Oh, yeah.  
 20 Q. How did you search for jobs online?  
 21 A. Computer.  
 22 Q. I understand you mean a computer.  
 23 What types of sites did you visit to search for  
 24 jobs online?

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1 A. I don't remember.  
 2 Q. How frequently did you search for jobs  
 3 online?  
 4 A. Every other day.  
 5 Q. Other than searching for jobs online  
 6 and filling out applications, what else did you  
 7 do?  
 8 A. I don't remember.  
 9 Q. After your termination from Sears, did  
 10 you ever treat with any psychiatrist or  
 11 psychologist as a result of your termination?  
 12 A. No.  
 13 Q. Have you ever treated with any  
 14 psychiatrist or psychologist?  
 15 A. No.  
 16 Q. What effect, if any, did your  
 17 termination have on you, aside from the fact  
 18 that you needed to look for new work?  
 19 A. Depression.  
 20 Q. Can you describe for me what you mean  
 21 by depression?  
 22 A. Just stressed out. I've never been  
 23 terminated like that, false termination.  
 24 Q. Did you talk to anybody about your

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1 depression?  
 2 A. My family.  
 3 Q. Who did you talk to?  
 4 A. My mother, my father.  
 5 Q. What did you guys talk about?  
 6 A. The situation. I honestly don't  
 7 remember. But I was talking about what I felt  
 8 at the time.  
 9 Q. Did you seek any professional  
 10 treatment as a result of your depression?  
 11 A. No.  
 12 Q. Have you ever sought any professional  
 13 treatment as a result of your --  
 14 A. No.  
 15 Q. -- depression?  
 16 Let me finish the question. I know  
 17 you know what I'm going to say. It's easier for  
 18 her.  
 19 A. That's true. She has to keep up.  
 20 Q. Other than the depression you felt  
 21 after your termination, what effect, if any, did  
 22 your termination have on you?  
 23 A. I wasn't bringing in income. I was  
 24 losing income.

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1 Q. Anything else?  
 2 A. I don't remember.  
 3 Q. Do you know roughly how much you make  
 4 at your -- how much you make at your current  
 5 job, including commissions?  
 6 A. Right now?  
 7 Q. Yes.  
 8 A. I'm averaging about, say, about \$1100.  
 9 Q. \$1100 per week?  
 10 A. It's always different.  
 11 Q. Understanding. But on average?  
 12 A. I would say 11.  
 13 Q. About \$1100?  
 14 A. Mm-hmm.  
 15 Q. How much did you make on a weekly  
 16 basis when you were employed at Sears?  
 17 A. Sears paid us every two weeks, and  
 18 every two weeks it averaged \$800.  
 19 Q. \$800 every two weeks, so roughly about  
 20 \$400 a week?  
 21 A. Yes.  
 22 Q. So you make right now about \$700 or so  
 23 more a week than what you made when you were  
 24 employed at Sears, on average?

42 (Pages 165 to 168)

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1 A. Correct.  
2 Q. Have you ever sought any treatment for  
3 any substance abuse?  
4 A. What do you mean?  
5 Q. Have you ever been an inpatient for  
6 any drug or rehabilitation treatment?  
7 A. No.  
8 Q. Have you ever sought any treatment for  
9 any excessive use of alcohol?  
10 A. No.  
11 Q. I'm going to show you again Exhibit  
12 No. 9. If you can look at this caption at the  
13 top, specifically the people listed above, the  
14 name of the defendants. If you could take a  
15 quick look for me.  
16 A. Okay.  
17 Q. As you sit here today, do you have any  
18 knowledge of any conversations among those  
19 people with regard to your termination?  
20 A. Me, conversations with those people?  
21 Q. Do you know of any conversations they  
22 had among themselves with regard to your  
23 termination?  
24 A. No.

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1 Q. Have you ever spoken with  
2 Officer Mansfield?  
3 A. No.  
4 Q. Has anybody ever spoken with  
5 Officer Mansfield on your behalf?  
6 A. I don't think so.  
7 MS. TRAN: I think that's it for me.  
8 John?  
9 CROSS EXAMINATION  
10 BY MR. CLOHERTY:  
11 Q. Good afternoon, Mr. Souvannakane. I'm  
12 John C'loherly. I represent Officer Gary  
13 Mansfield in this lawsuit. I have some  
14 follow-up questions for you.  
15 A. Okay.  
16 Q. Do you know who Officer Gary Mansfield  
17 is of the Saugus Police Department?  
18 A. No, I don't.  
19 Q. Have you ever met him in person?  
20 A. No, I haven't.  
21 Q. Have you ever had any contact with him  
22 before the issuance of the citation that you  
23 received in the mail?  
24 A. No, I haven't.

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1 Q. I wasn't here earlier when you were  
2 asked about your prior contacts with the police  
3 by Ms. Tran. Did any of those contacts involve  
4 the Saugus Police Department ever arresting you?  
5 A. No.  
6 Q. So you were never arrested by the  
7 Saugus Police Department or any of its officers  
8 at any time?  
9 A. No.  
10 Q. Now, you first became aware of the  
11 charges concerning the oil spill by way of a  
12 citation you received in the mail; is that fair  
13 to say?  
14 A. Yes, it is fair.  
15 Q. I'm going to mark as an exhibit the  
16 defendant's disclosure because co-defense  
17 attorney has already made copies. And among  
18 these documents are various records reproduced  
19 to your attorney. So we'll have them marked and  
20 I'll show them to you.  
21 (Exhibit 11 marked  
22 for identification)  
23 Q. Showing you, sir, what's been marked  
24 as Exhibit No. 11, and I provided your attorney

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1 a copy as well. I suggest to you this is a copy  
2 of the discovery documents we produced to your  
3 attorney in this lawsuit.  
4 I want to direct your attention to the  
5 last page of this exhibit.  
6 The quality of the copy may be  
7 somewhat poor. Do you recognize that document,  
8 sir?  
9 A. I don't remember. Oh, yeah. This is  
10 the citation; isn't it?  
11 Q. That's what I'm asking you. Is that  
12 the citation, a copy of the citation you  
13 received in the mail?  
14 A. Yes.  
15 Q. Or similar to the citation that you  
16 received in the mail, sir?  
17 A. I would say similar.  
18 Q. When you got that citation, sir, what  
19 was the first thing that you did?  
20 A. Questioned myself.  
21 Q. Did you speak to anyone in the employ  
22 or formerly in the employ of Sears after you  
23 received that in the mail?  
24 A. Not right away, no.

43 (Pages 169 to 172)

Page 173

1 Q. Did you call any of your friends that  
2 used to work with you at Sears about why you  
3 were being mailed a citation?

4 A. Yes, matter of fact, I informed a  
5 fellow employee.

6 Q. Who was that, sir?

7 A. John Baldi, Jr.

8 Q. How soon after you received the  
9 citation in the mail did you tell Mr. John  
10 Baldi, Jr., that you got it?

11 A. It wasn't right away. I don't  
12 remember.

13 Q. Within a day or two?

14 A. I honestly don't remember.

15 Q. But you do remember having a  
16 conversation with him about it?

17 A. Oh, yes.

18 Q. Did you speak in person or on the  
19 telephone?

20 A. Telephone.

21 Q. What was the nature of that  
22 discussion? What did you say and what did he  
23 reply?

24 A. I told him I received a citation in

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1 the mail by a Saugus officer.

2 Q. Did you ask him what's it all about?

3 A. No.

4 Q. What did he reply to you after you  
5 told him you received a citation in the mail?

6 A. He asked for the officer's name, and I  
7 gave him the officer's name.

8 Q. Then what happened after you told him  
9 the officer's name?

10 A. That's when he told me there was an  
11 oil spill.

12 Q. What did he tell you about the oil  
13 spill?

14 A. That it was a big oil spill that they  
15 had to clean up, and my name was in the  
16 environment, in the Sears, Roebuck environment.

17 Q. When you say "the environment," you  
18 mean people at Sears, Roebuck were talking about  
19 your name?

20 A. Yes.

21 Q. According to Mr. Baldi?

22 A. Yes.

23 Q. Did he tell you what was being said  
24 about you at Sears, Roebuck?

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1 A. He told me that they think I did it.

2 Q. And how did you respond to him?

3 A. I didn't agree.

4 Q. Did you tell him you did not do it?

5 A. Yes.

6 Q. What did he say in reply?

7 A. He said, I know you didn't do it.

8 Q. Did he say anything else?

9 A. From there on, no.

10 Q. Did he explain to you why he knew you  
11 did not do it?

12 A. I wasn't there at the time, I guess.

13 Q. Did Mr. Baldi ever tell you he knew  
14 who did cause the oil spill?

15 A. No.

16 Q. Have you ever heard from any source at  
17 any time as to who caused the oil spill that you  
18 were being charged with?

19 A. No.

20 Q. Do you today know who caused that oil  
21 spill that you are being charged with?

22 A. No.

23 Q. Has anyone told you that they know who  
24 caused that oil spill that you were charged

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1 with?

2 A. No.

3 Q. Earlier in your testimony you did  
4 testify that you yourself spilled some oil when  
5 you were checking your toolbox; is that correct?

6 A. Correct.

7 Q. Are you contending that there were two  
8 oil spills, one that you caused and then a  
9 separate one that was the subject of a criminal  
10 charge?

11 A. I'm assuming so.

12 Q. Why are you assuming that there were  
13 two different oil spills, and you weren't being  
14 charged for that one next to your toolbox?

15 A. I cleaned it up.

16 Q. How much of a volume of oil was  
17 spilled at that one that you cleaned up?

18 A. It wasn't much, but it was oil on the  
19 ground.

20 Q. What steps did you take to clean up  
21 that oil?

22 A. Right when I noticed that the oil  
23 barrel tipped over, I rushed and picked up the  
24 oil barrel. I went to grab these foam pads that

44 (Pages 173 to 176)

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1 we have that absorbs oil, and that's what I  
 2 used.  
 3 Q. Were you trained in your employment at  
 4 Sears or elsewhere on how to deal with oil  
 5 spills if that happens?  
 6 A. Yes.  
 7 Q. What was your training?  
 8 A. Oil training.  
 9 Q. What did they train you to do?  
 10 A. What to do if you spill oil.  
 11 Q. What steps did they tell you to take?  
 12 A. I don't remember. But foam pads was a  
 13 good thing though.  
 14 Q. What did you do after you put down the  
 15 foam pads on the oil that spilled?  
 16 A. I just cleaned them up.  
 17 Q. Was there a special area to dispose of  
 18 those foam pads after a cleanup?  
 19 A. You wait until it absorbs all the oil,  
 20 then you just pick it up and throw it in the oil  
 21 wastebasket.  
 22 Q. And how long did it take to do the  
 23 cleanup from the time you had that spill next to  
 24 your toolbox?

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1 A. I don't remember.  
 2 Q. Was it a matter of hours or matter of  
 3 minutes?  
 4 A. I would say minutes.  
 5 Q. Less than an hour?  
 6 A. Yes.  
 7 Q. Were there any other efforts that you  
 8 had to make to clean up the oil besides putting  
 9 down those oil pads?  
 10 A. Yeah.  
 11 Q. What else did you have to do?  
 12 A. Wipe it.  
 13 Q. Did you have to spray any kind of  
 14 solvent on the ground?  
 15 A. No, not necessarily.  
 16 Q. What did you wipe it up with besides  
 17 the pads?  
 18 A. A fresh foam pad.  
 19 Q. Then you disposed of that in the same  
 20 manner?  
 21 A. Yes.  
 22 Q. Did you take any other steps to do  
 23 that cleanup?  
 24 A. No, not that I remember. I cleaned it

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1 up good though.  
 2 Q. So based on having cleaned it up, you  
 3 do not believe that this citation was for that  
 4 oil spill that you cleaned up?  
 5 A. Yes.  
 6 Q. Now, did you talk to Mr. Baldi about  
 7 Officer Mansfield in particular when you called  
 8 him?  
 9 A. Not necessarily.  
 10 Q. Did he indicate to you that he knew  
 11 Officer Mansfield?  
 12 A. He's the one that told me about  
 13 Officer Mansfield.  
 14 Q. What did he tell you about  
 15 Officer Mansfield?  
 16 A. That he was down at Sears, Roebuck, I  
 17 guess, at the date of the oil spill.  
 18 Q. What else did he tell you about  
 19 Officer Mansfield?  
 20 A. That he was questioning everybody.  
 21 Q. Did he tell you anything else about  
 22 Officer Mansfield?  
 23 A. That's all I remember.  
 24 Q. Did Mr. Baldi, Jr., know who Officer

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1 Mansfield was from the day of the oil spill?  
 2 A. I don't know.  
 3 Q. He didn't tell you I know  
 4 Officer Mansfield from around town or anything  
 5 like that?  
 6 A. I don't know.  
 7 Q. Do you have a memory of him telling  
 8 you that he knew Officer Mansfield and who he  
 9 was?  
 10 A. No.  
 11 Q. Did Mr. Baldi relate to you who  
 12 Officer Mansfield spoke to at Sears?  
 13 A. He just said everyone.  
 14 Q. Did he include himself as having  
 15 spoken to Officer Mansfield?  
 16 A. Yes.  
 17 Q. Did he tell you what Mr. Baldi and  
 18 Officer Mansfield talked about?  
 19 A. No.  
 20 Q. At any point in time after the time  
 21 you first spoke to him about the citation, did  
 22 Mr. Baldi, Jr., tell you what he and  
 23 Officer Mansfield spoke about?  
 24 A. Yes.

45 (Pages 177 to 180)



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1 Q. What did he tell you at a later point  
2 in time?  
3 A. He just asked John Baldi, Jr., who did  
4 it.  
5 Q. What did John Baldi, Jr., respond?  
6 A. He doesn't know.  
7 Q. Was there any further discussion that  
8 Mr. Baldi, Jr., related to you about his talks  
9 with Officer Mansfield?  
10 A. No. That was it as I remember.  
11 Q. Did Mr. Baldi, Jr., tell you that he  
12 witnessed the oil spill?  
13 A. No.  
14 Q. Did he see the cleanup of the oil  
15 spill that was the subject of this citation?  
16 A. Yes.  
17 Q. What did he tell you about the cleanup  
18 of the oil spill?  
19 A. They had to come clean it up.  
20 Q. Did they hire a company to come clean  
21 it up?  
22 A. Correct.  
23 Q. Did Mr. Baldi say that he saw that and  
24 witnessed the company clean it up?

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1 A. I don't remember.  
2 Q. Did he tell you anything further about  
3 the cleanup other than they hired someone to  
4 clean it up?  
5 A. I don't remember.  
6 Q. Did you ever hear any statements made  
7 about use of a hose to clean up the oil spill?  
8 A. I believe so.  
9 Q. Who told you about that?  
10 A. Probably Baldi.  
11 Q. You are saying probably. Do you have  
12 a particular memory of him telling you this?  
13 A. He's the only person that told me  
14 about the oil spill.  
15 Q. Did you talk to any Sears employees at  
16 any time about the oil spill that was the  
17 subject of this charge?  
18 A. No.  
19 Q. So your only source of information  
20 would have been Mr. Baldi, Jr., correct?  
21 A. Correct.  
22 Q. His dad doesn't work at Sears, does  
23 he?  
24 A. No.

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1 Q. Does his father have any connection  
2 with Sears at all?  
3 A. No.  
4 Q. Had he ever worked there in the past?  
5 A. I don't know.  
6 Q. Other than Mr. Baldi's statement, are  
7 you aware of anyone else relating to you any  
8 conversations with Officer Mansfield about the  
9 investigation of the oil spill?  
10 A. Say that again.  
11 Q. Let me ask it a different way.  
12 A. I understand. I wasn't focused.  
13 Q. Other than Mr. Baldi, Jr., who told  
14 you what Officer Mansfield did to investigate  
15 the oil spill, did anyone else tell you about  
16 Officer Mansfield's actions about the oil spill?  
17 A. No.  
18 Q. Would you recognize Officer Mansfield  
19 if you saw him today?  
20 A. Not from a hole in the wall.  
21 Q. You never met him in person?  
22 A. Uh-uh.  
23 Q. Is that a yes or no?  
24 A. No.

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1 Q. After you had the citation mailed to  
2 you, did you appear in court in response to that  
3 citation?  
4 A. The date on the citation?  
5 Q. Yes.  
6 A. I showed up in court.  
7 Q. You showed up on the date that was  
8 stated on the citation?  
9 A. Yes.  
10 Q. And there was a hearing on the day  
11 that you showed up?  
12 A. Yes, there was.  
13 Q. And that hearing was to determine  
14 whether a summons should issue on the criminal  
15 charge, correct?  
16 A. I don't remember.  
17 Q. There was evidence taken as far as  
18 testimony being given in court that day,  
19 correct?  
20 A. I don't remember.  
21 Q. Do you remember on the date you showed  
22 up in court whether there were any Sears  
23 employees there that day?  
24 A. Yes.

46 (Pages 181 to 184)

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1 Q. Who was there on behalf of Sears?  
2 A. Jose Fernandez (sic).  
3 Q. Who else?  
4 A. You are talking employees, right?  
5 Q. Right.  
6 A. Just Jose Fernandez (sic).  
7 Q. Was Alicia Coviello there that first  
8 day when you showed up in court?  
9 A. She was there, too.  
10 Q. You don't consider her a Sears  
11 employee?  
12 A. I do now.  
13 Q. Other than Alicia Coviello and  
14 Mr. Hernandez, were there any other Sears  
15 employees in court that day?  
16 A. No.  
17 Q. Do you know if Officer Mansfield was  
18 there that day in court?  
19 A. I don't think so.  
20 Q. Do you know if the Saugus Police  
21 Department has a different officer who appears  
22 for court hearings?  
23 A. There was an officer there.  
24 Q. But it wasn't Officer Mansfield, was

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1 it?  
2 A. Not that I know of.  
3 Q. Do you know who that officer was that  
4 was in court that day?  
5 A. No.  
6 Q. Did either Mr. Hernandez or  
7 Ms. Coviello give any sworn statements to the  
8 clerk of the court that day?  
9 A. I don't remember.  
10 Q. Were you yourself asked to raise your  
11 right hand and swear to tell the truth and give  
12 a statement to the clerk that day?  
13 A. I don't remember.  
14 Q. Do you recall the case being called  
15 before the clerk that day?  
16 A. I don't understand.  
17 Q. Do you recall being in court and the  
18 matter coming to the attention of the clerk and  
19 the clerk hearing anything about your case that  
20 day?  
21 A. No.  
22 Q. Do you know who the clerk was that  
23 day?  
24 A. A woman.

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1 Q. Do you know what her name is?  
2 A. No, I don't.  
3 THE WITNESS: Could I get a break?  
4 MR. CLOHERTY: Yeah. Do you want to  
5 take five minutes?  
6 THE WITNESS: Yes.  
7 (Recess taken)  
8 BY MR. CLOHERTY:  
9 Q. At that hearing, the clerk for the  
10 Lynn District Court, her name is Jane Grady  
11 Sternwall. Does that sound familiar?  
12 A. No.  
13 Q. Doesn't refresh your recollection as  
14 to the name of the clerk that day when you first  
15 appeared in court?  
16 A. No.  
17 Q. Did you have anyone with you on your  
18 behalf that day?  
19 A. Yes, I did.  
20 Q. Who else was there on your behalf?  
21 A. John Baldi, Sr.  
22 Q. Why was John Baldi, Sr., there on your  
23 behalf?  
24 A. Just to support me.

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1 Q. Is he an attorney?  
2 A. No.  
3 Q. Do you have any memory today of any  
4 statements or sworn testimony before the clerk  
5 that day at all, that first day that you  
6 appeared in court?  
7 A. Ask me that again.  
8 Q. Do you have any memory of any sworn  
9 statements being taken by the clerk that first  
10 day you appeared in court?  
11 A. I don't remember.  
12 Q. Now, you've already testified you  
13 received a citation to appear in court that day,  
14 correct?  
15 A. Yes.  
16 Q. You were never arrested by  
17 Officer Mansfield, correct?  
18 A. Correct.  
19 Q. You were never arrested by any member  
20 of the Saugus Police Department about these  
21 charges, correct?  
22 A. Correct.  
23 Q. You were never held in custody for any  
24 period of time by Officer Mansfield, were you?

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1 A. Correct.  
2 Q. And you were never detained by  
3 Officer Mansfield and told not to move, were  
4 you?  
5 A. Correct.  
6 Q. In fact, you've never had any contact  
7 with him whatsoever, have you?  
8 A. Correct.  
9 Q. Now, the matter after the first day  
10 you appeared on the citation proceeded to other  
11 hearings in Lynn District Court. You said you  
12 appeared three or four times total. Do you  
13 recall that, sir?  
14 A. Yes, sir.  
15 Q. And among those times was a trial  
16 before a judge of the district court, correct?  
17 A. Correct.  
18 Q. And at that trial there was testimony  
19 taken, correct?  
20 A. Yes, there was.  
21 Q. Do you know who testified at the  
22 trial?  
23 A. Jose.  
24 Q. And did anyone else testify?

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1 A. That girl.  
2 Q. "That girl" is Alicia Coviello?  
3 A. Yes.  
4 Q. She testified as well?  
5 A. Yes, she did.  
6 Q. Did you yourself testify that day?  
7 A. Yes.  
8 Q. Did anyone else testify on your  
9 behalf?  
10 A. My lawyer.  
11 Q. Besides your lawyer, did any other  
12 witnesses come forward on your behalf besides  
13 yourself?  
14 A. I don't remember.  
15 Q. Do you remember the result or the  
16 outcome of that trial, sir?  
17 A. Not guilty.  
18 Q. Now, in your complaint there's an  
19 allegation that Mr. Hernandez left the courtroom  
20 at one point in time and refused to testify. Do  
21 you recall that, sir?  
22 A. Yes, sir.  
23 Q. But he did testify at the trial of  
24 your case, correct?

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1 A. Yes, he did.  
2 Q. So the occasion when he left the  
3 courtroom was when, when did that happen?  
4 A. The first time, the citation date.  
5 Q. Did you have any discussions with him  
6 about why he was leaving the courtroom?  
7 A. Yes.  
8 Q. What discussions did you have with  
9 him?  
10 A. He came to me first, How you doing,  
11 meet and greet. And from there, What are you  
12 doing here. I asked him, What are you doing  
13 here. And he goes, I'm here for Sears. And  
14 from there he goes, he just walked around real  
15 quick and he comes back at me. You know what,  
16 sorry man, but fuck this lying shit. And he  
17 leaves.  
18 Q. Did he say anything else to you?  
19 A. That is it.  
20 Q. Did you ask him what he meant by "this  
21 lying shit" that he was telling you about?  
22 A. No. He said it real quick, and he  
23 left. That was it.  
24 Q. Did you have any subsequent

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1 conversations with him about what he meant by  
2 that?  
3 A. No.  
4 Q. Have you ever talked to him since that  
5 date in the courtroom about what he meant?  
6 A. No.  
7 Q. In fact, after telling you that, he  
8 later did testify in court at your trial,  
9 correct?  
10 A. Yes.  
11 Q. Was Officer Mansfield present at the  
12 trial, sir?  
13 A. I don't believe so.  
14 Q. And you didn't have any police officer  
15 witnesses testify at the trial, did they?  
16 A. I don't think so. I don't remember,  
17 to be honest with you. I just remember what I'm  
18 telling you.  
19 Q. Has anyone ever told you, other than  
20 Mr. Baldi, that they spoke to Officer Mansfield  
21 about this investigation?  
22 A. No.  
23 Q. Other than Mr. Baldi and what you  
24 testified earlier, have you learned from any

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